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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,559	04/06/2001	Osamu Shibata	29288.0300	6490

20322 7590 11/24/2006

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EXAMINER

HOMAYOUNMEHR, FARID

ART UNIT	PAPER NUMBER
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2132

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/828,559

Applicant(s)

SHIBATA ET AL.

Examiner

Farid Homayounmehr

Art Unit

2132

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

(B) a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ They raise the issue of new matter (see NOTE below);
 - (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

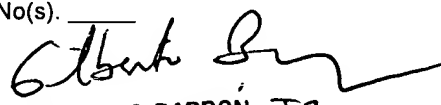
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-47.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


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Continuation of 11. does NOT place the application in condition for allowance because: applicants' arguments are not persuasive as described below:

Applicants have continued their argument about Ishibashi's disclosure to generate "contents key based on a second decryption limitation obtained by updating a first decryption limitation", and requested that the Examiner clearly identify which key in Ishibashi is generated based on an update of the Copy control code. Ishibashi's col. 6, lines 11-20 reads: "a copy control code is added to the decrypted content decryption key Kcd, and the copy control code is rewritten to a state that the content data may not be copied." Kcd is a contents key, which is updated (rewritten) based on a second decryption limitation (content data may not be rewritten). Therefore, Ishibashi clearly teaches the limitation to generate "contents key based on a second decryption limitation obtained by updating a first decryption limitation".

Applicants further argue that "Examiner is trying to explain the generation of keys from the key generation section 14 by referring to column 6, lines 1-20". However, as explained in the Final rejection, item 100 is also a device performing both encryption and decryption, which performs key generation based on copy control management.

Applicants further argue that "Importantly, however, Ishibashi has not been found to teach or suggest that the content key decryption section 131 performs decryption based on a copy control scheme". However, Examiner has not relied on item 131 to perform decryption based on a copy control scheme. Item 131 is part of the encryption/decryption device 100. It generates Kcd. As described in col. 10 lines 53 to 66, the copy control code added to Kcd is detected by item 137, which changes the copy control code according to change copy generation (second decryption limitation). Note also that per column 13 lines 47 to 60, Kcdcx is a copy control code-added content decryption key, which shows a contents key is generated based on the copy control code (second decryption limitation). This clearly discloses "generating the contents key from the second decryption limitation".

Applicant further argues: "it is illogical for the content key decryption section 131 to perform decryption based on the copy controller 137". However, as mentioned before, Examiner has not relied on item 131 to perform decryption based on a copy control scheme. Item 131 was cited for its role in how the limitation "generating the contents key from the second decryption limitation" is taught by Ishibashi.

Applicants name several other limitations as not being disclosed by Ishibashi, but present no supportive argument to traverse Examiner's rejections in prior office actions, which includes all claim limitations.

At the end, applicants request that Examiner consider the reference as a whole. Absent any specific reason pointed out by applicants to the contrary, Examiner firmly believes that the reference, as a whole, is clearly related to the same subject matter as the applicant's invention.

Based on the above discussion, applicants' arguments fail to put the applicant in a better condition for allowance.